

**AGENDA MEMO**

**CITY COUNCIL MEETING DATE: JULY 12, 2006**  
**DEPARTMENT: PLANNING AND DEVELOPMENT**  
**ITEM DESCRIPTION: ABEYANCE - RQR-11344 - APPLICANT: SENSATION**  
**SPAS OF NEVADA - OWNER: DAVID MADDOX**

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***THIS ITEM WAS HELD IN ABEYANCE FROM THE JUNE 7, 2006 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.***

**\*\* CONDITIONS \*\***

The Planning Commission (7-0 vote) and staff recommend DENIAL.

**Planning and Development**

1. This Special Use Permit shall be reviewed in one (1) year, at which time the City Council may require the open-air vending/transient sales lot use be discontinued. The applicant shall be responsible for notification costs of the review. Failure to pay the City for these costs may result in a requirement that use be discontinued.
2. Any outside storage kept in conjunction with this use shall conform to the requirements set forth in Title 19.04.040.
3. The open air/transient sales lot use shall not be extended onto adjacent parcels
4. Conformance to conditions of approval for Special Use Permit (U-0052-02), Required Review (RQR-2792) and Required Review (RQR-4264).
5. All City Code requirements and design standards of all City departments must be satisfied.

## **\*\* STAFF REPORT \*\***

### **APPLICANT REQUEST**

This is a required One Year Review of an approved Special Use Permit (U-0052-02) which allowed an Open Air Vending/Transient Sales Lot at 3320 North Rancho Drive.

### **EXECUTIVE SUMMARY**

Several conditions of approval were placed upon the original approval of the Special Use Permit. A survey of the site discovered that all but one of the conditions of approval have been met since the original approval. The applicant has allowed the use to expand onto 3340 North Rancho Drive, which condition number six of RQR-2792 prohibited. Staff finds that use not be in compliance with the conditions of RQR-2792 and the subsequent Required Review (RQR-4264) and therefore recommends denial.

### **BACKGROUND INFORMATION**

#### ***A) Related Actions***

- 07/17/02      The City Council approved a Special Use Permit (U-0052-02) for an open-air vending/transient sales lot on this site, subject to a one-year required review. The Planning Commission and staff recommended approval on 06/13/02.
- 10/01/03      The City Council approved a required One Year Review (RQR-2792) of the Special Use Permit that allowed an open-air vending/transient sales lot on this site, subject to a six-month required review. The Planning Commission recommended approval on 08/28/03. Staff recommended denial.
- 09/15/04      The City Council approved a required Six Month Review (RQR-4264) of the Special Use Permit that allowed an open-air vending/transient sales lot on this site, subject to a one-year required review. The Planning Commission recommended denial on 05/27/04. Staff recommended denial.
- 04/13/06      The Planning Commission voted 7-0 to recommend DENIAL (PC Agenda Item #42/dr).

#### ***B) Pre-Application Meeting***

A pre-application meeting is not required for a Required Review.

**C) *Neighborhood Meetings***

A neighborhood meeting is not required for this application nor was one held.

**DETAILS OF APPLICATION REQUEST**

**A) *Site Area***

Net Acres: 0.48

**B) *Existing Land Use***

Subject Property: Open Air Vending/Transient Sales Lot  
North: Commercial  
South: Undeveloped  
East: Undeveloped  
West: Undeveloped

**C) *Planned Land Use***

Subject Property: GC (General Commercial)  
North: GC (General Commercial)  
South: GC (General Commercial)  
East: GC (General Commercial)  
West: GC (General Commercial)

**D) *Existing Zoning***

Subject Property: C-2 (General Commercial)  
North: C-2 (General Commercial)  
South: C-2 (General Commercial)  
East: C-2 (General Commercial)  
West: C-2 (General Commercial)

**E) *General Plan Compliance***

The site is designated GC (General Commercial) on the Centennial Hills Interlocal Plan Map of the General Plan. The existing C-2 (General Commercial) Zoning designation is in conformance with the General Plan.

<b><i>SPECIAL DISTRICTS/ZONES</i></b>	<b>Yes</b>	<b>No</b>
<b>Special Area Plan</b>		<b>X</b>
<b>Special Overlay District</b>		<b>X</b>
<b>Trails</b>	<b>X</b>	
<b>Rural Preservation Overlay District</b>		<b>X</b>
<b>County/North Las Vegas/HOA Notification</b>		<b>X</b>
<b>Development Impact Notification Assessment</b>		<b>X</b>
<b>Project of Regional Significance</b>		<b>X</b>

### **Trails**

A 20-foot wide multi use transportation trail is required along the east side of Rancho Drive on this site. The trail has been built along this parcel.

## **ANALYSIS**

### ***A) Zoning Code Compliance***

#### **A1) Parking and Traffic Standards**

The basis for most parking standards is the square footage of the building in which the use is located. Because open-air vending/transient sales lots are conducted outside, no comparable parking standards can be applied. The site plan submitted as part of the original Special Use Permit review depicted thirteen parking spaces on the subject site. The site plan submitted with RQR-2792 indicates seven parking spaces at 3320 North Rancho Road and an additional seven parking spaces on the adjacent parcel located at 3340 North Rancho Road. The applicant has constructed the parking lot per the site plan submitted with RQR-2792. The applicant has provided the one required handicapped space. No loading zone is indicated on the submitted site plan nor has one been constructed.

#### **A2) Minimum Distance Separation Requirements**

There are no Minimum Separation Distance Requirements in the Zoning Code that apply to the existing open-air vending/transient sales lot use.

### ***B) General Analysis and Discussion***

- **Zoning**

Current code allows open-air vending/transient sales lot uses as a conditional use in the C-2 (General Commercial) Zoning district. At the time of the original application, this use required a Special Use Permit.

- **Use**

Title 19.20 defines open air vending/transient sales lot as an area that is used exclusively for the sale or taking of orders for any merchandise where such merchandise is displayed or sold in the open area; such activities are not part of the operation of an established business; and no permanent physical structures or facilities are used as integral parts of the sales or order taking operations. The term includes the display or sale of merchandise in or in connection with a truck, trailer or movable building of any type. The current use conforms to the above definition.

- Conditions

Several conditions of approval were placed upon the original approval of the Special Use Permit (U-0052-02) and subsequent Required Reviews (RQR-2792 and RQR-4264). A survey of the site was completed on 04/13/06. The following is a list of conditions, all of which are part of the original Special Use Permit (U-0052-02) and subsequent Required Reviews (RQR-2792 and RQR-4264), that have been implemented by the applicant:

Conditions from RQR-4264	Conditions Satisfied: Yes or No
1. This Special Use Permit shall be reviewed in one (1) year, at which time the City Council may require the open-air vending/transient sales lot use be discontinued. The applicant shall be responsible for notification costs of the review. Failure to pay the City for these costs may result in a requirement that use be discontinued	Yes
2. An outside storage kept in conjunction with this use shall conform to the requirements set forth in Title 19.04.040.	Yes
3. The open air/transient sales lot use shall not be extended onto adjacent parcels.	No
4. All parking areas shall be paved and appropriately marked in accordance with the requirements of Title 19.10.	Yes
5. The applicant shall construct the required Multi-Use Transportation Trail along Rancho Drive, in accordance with the standards as outlined in the Master Plan Transportation Trails Plan.	Yes
6. Landscaping and a permanent underground sprinkler system shall be installed as required by the Planning Commission or City Council and shall be permanently maintained in a satisfactory manner.	Yes
7. Conformance to conditions of approval for Special Use Permit (U-0052-02).	Yes
8. All City Code requirements and design standards of all City departments must be satisfied.	Yes

The Interlocal Joint Use Planning Area Trails Map depicts a multi-use transportation trail along the east side of Rancho Drive. Installation of the trail was not required as a condition of approval for the Special Use Permit but was added to the first One Year Required Review. The applicant is responsible for the installation of the trail including the required amount of plantings per the Master Plan Transportation Trails Element.

This condition for the trail construction including the required plantings replaced condition No. 6 of the original Special Use Permit (U-0052-02). This portion of the trail has been installed and the condition has been met.

Although the applicant has met most of the previous conditions of approval, the applicant has allowed the use to expand onto 3340 North Rancho Drive, which RQR-4264 prohibited by a condition of approval. This condition has not been met. Condition number three of RQR-4264 states "The open air/transient sales lot use shall not be extended onto adjacent parcels".

Staff also notes that the subject site contains two accessory structures. Staff conducted research and was unable to locate any permits for these structures. Also the applicant maybe in violation of Title 19 regarding outside storage for the subject parcel (3320 North Rancho Drive) and the adjacent parcel (3340 North Rancho Drive). Code enforcement has been advised of these issues.

## **FINDINGS**

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

1. **"The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan."**

Because the applicant has not fulfilled the requirement of condition number three of RQR-4264 which states "The open air/transient sales lot use shall not be extended onto adjacent parcels", this use is not being conducted in a manner compatible with the surrounding land uses. Therefore, the recommendation for this required review is denial.

2. **"The subject site is physically suitable for the type and intensity of land use proposed."**

The property on which the subject use is located is not capable of meeting all the requirements of Title 19 for the use, as the applicant has expanded the use to an adjacent parcel. The property, therefore, is not physically suitable for the use.

3. **"Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use."**

Access to the site is via Rancho Drive a 200-foot-wide Primary Arterial highway that has sufficient capacity for the traffic generated by this use.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

The business is subject to regular inspection by the City for business licenses, permits, and compliance with required conditions of approval will be needed. As the applicant has not complied condition number three of RQR-4264 which states “The open air/transient sales lot use shall not be extended onto adjacent parcels”, the proposed use is inconsistent with the public health, safety and welfare.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED**

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**ASSEMBLY DISTRICT** 1

**SENATE DISTRICT** 4

**NOTICES MAILED** 125 by City Clerk

**APPROVALS** 0

**PROTESTS** 0